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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,776	05/26/2005	Francesco Favagrossa	1011-734	2858
47888 7590 03/11/2009 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER GUIDOTTI, LAURA COLE				
ART UNIT		PAPER NUMBER		
3727				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,776

Applicant(s)

FAVAGROSSA, FRANCESCO

Examiner

Laura C. Guidotti

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because the "Replacement Sheet" correcting the drawings submitted by the Applicant on 22 December 2008 is a sheet having Figures 1 and 2. The originally filed drawings show that Figure 1 shares a sheet with Figures 6-7. Therefore, the replacement sheet of 22 December 2008 is incorrect as it shows the wrong set of Figures on one sheet. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The amendment filed 22 December 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Page 4 last line of the amended specification states that there is "...a longer band element, having a length larger than that of *an imaginary* band element..." This is considered to be new matter as the original disclosure makes no mention of "an imaginary band element".

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 4 Lines 24-28 contains subject matter that is not in the originally filed disclosure. Claim 4 Lines 24-28 recite "...that each said band element has a length larger by substantially 25% than a length of an imaginary like band element arranged in a direction parallel to said central longitudinal axis of said cylindrical body". The originally filed drawings and disclosure do not contain this limitation. Claim 5 also contains new matter as the originally filed disclosure does not disclose that

"each said band element has a different color". The disclosure does state that adjoining band elements of different colors create a colored spiral, however the disclosure does not state that "each" of the band elements have a different color.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 Lines 24-28 recite "...that each said band element has a length larger by substantially 25% than a length of an imaginary like band element arranged in a direction parallel to said central longitudinal axis of said cylindric ring body". This is confusing and unclear to the Examiner. What is "an imaginary like band element"? If it is imaginary, how is it arranged and having a length relationship to another band element?

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 4 is rejected under 35 U.S.C. 102(a) as being anticipated by JP 2002-316622 (see also computer generated English translation).

JP 2002-316622 discloses the claimed invention including a washing brush element comprising a cylindric ring body having a central longitudinal axis and a side cylindric outer surface (2, see Figures), on the cylindric outer surface there are defined

a plurality of separated adjoining seats (each seat is the region having reference number 10 in Figure 3, they are separated and adjoining each other as shown) each for fixedly receiving a cleaning closed cell band element (3; see English translation paragraph 16), the band element comprising an elongated substantially rectangular flat body (Figure 4) having an end portion thereof fixedly restrained in a seat of the cylindric body (upper and lowermost central ends at reference numeral 3h), each band element being longitudinally slit or cut (at S) to define a plurality of adjoining substantially flat and parallel cleaning bristles (4), wherein the seats are diagonal seats having a length smaller than a diameter of the cylindric ring body (Figure 3) and such an inclination with respect to the central longitudinal axis of the cylindrical ring body that, with the ring body in a vertical non driven condition, each band element is inherently capable of overlapping on and particularly contact an adjoining like band (Figure 1), the inclination is such that the band element has a length larger than a length of "an imaginary like band element" (see Figures, B1 and B2 have different lengths, see Figures 2 and 4).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2002-316622 in view of DE 201 14 359 U1 (see also WO 03/018375 A1 which is in the patent family and includes an English translation of the Abstract).

JP 2002-316622 discloses all elements previously mentioned above, however does not include that band elements have different colors.

DE 201 14 359 U1 teaches a car wash brush having adjoining strips of band elements that have different colors so that when the washing brush is rotated, a colored pattern occurs to provide an interesting optical effect (see Figures, English translation of the Abstract).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the strips of band elements of JP 2002-316622 to have different colors, as DE 201 14 359 U1 teaches, to form a pattern of color in order to provide an aesthetically interesting pattern as the brush rotates.

Response to Arguments

7. Applicant's arguments filed 22 December 2008 have been fully considered but they are not persuasive.

The Applicant argues that JP 2002-316622 does not disclose that "each band element falls so as to overlap and partially contact an adjoining like band element" and that the bolt elements shown in Figure 2 would prevent such an arrangement from occurring. The Examiner respectfully disagrees. Each band element (3) is mounted to the cylindrical ring in seats 10 at 3h by screws b (see also English translation). From the configuration of the seats shown in Figure 3, the uppermost and bottommost edges of adjacent band elements would be in contact when mounted in the seats. There is inherently weight associated with the closed cell material of the band element and under the forces of gravity in a non-driven condition, each band element is capable of falling so as to overlap on and partially contact an adjoining band element.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Guidotti/
Primary Examiner, Art Unit 3727

lcg